

Department of Health Professions

DIRECTOR'S POLICY # 76-3.2

Providing Sanction Reference Point Worksheet to the Respondent

Effective Date: July 19, 2011

Approved By: _____

D. Reynolds-Cane MD
Dianne Reynolds-Cane, M.D., Director

Purpose: To establish policy to ensure agency-wide compliance with the Virginia Administrative Process Act (APA), §54.1-2400.2 and other relevant *Code of Virginia* sections as they relate to the Sanction Reference Point systems, including the provision that a copy of the completed worksheet prepared for an informal fact finding proceeding be provided to the respondent.

Policy: The APA¹ provides that parties (respondents) in informal fact finding proceedings have certain due process rights, among them:

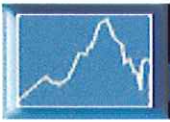
- To have reasonable notice, including any contrary fact basis or information in the possession of the agency that can be relied upon in making an adverse decision.
- To appear in person or by counsel or other qualified representative before the agency or its subordinates for the presentation of factual data, argument, proof in connection with any case.
- To be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case.

Sanction Reference Point (SRP) systems were developed by the Board of Health Professions to assist boards in ensuring fair treatment of licensees regarding sanctioning decisions when a finding of violation had been established. The first SRP system was developed for the Board of Medicine and was launched in 2004. Now, all 13 boards have tailored SRP systems, and it is essential to ensure that all boards apply consistent processes to ensure compliance with the aforementioned statutes.

Based upon Board of Health Professions Counsel's advice and the longstanding practice of the Board of Medicine pursuant to similar advice by its own Counsel, the respondent in a case with a finding of violation in which SRPs are employed is entitled to a copy of the completed SRP Worksheet.

The following procedures are to be applied by all Boards:

¹ Reference § 2.2-4019 of the *Code of Virginia*.



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Procedure:

- 1) Respondents in cases in which SRPs may be used, shall receive notice of such within the Notice of Informal Conference or, in instances in which cases are decided at the pre-hearing level, respondents are to be notified of the use of SRPs.
- 2) Respondents are to be directed to the link to the board-specific SRP manual posted on the agency's website or provided a hard copy.
- 3) SRP Worksheets shall be completed in accordance with the most current (SRP) manual instructions and only when there has been a finding of violation.
- 4) SRP Worksheets are to be completed for all disciplinary cases adjudicated at the level of informal conference and pre-hearing level if the respective board has determined it will use them for pre-hearing cases. SRP Worksheets are NOT to be completed at formal hearings.
- 5) The respondent is to be provided a copy of the completed worksheet along with a copy of the order regardless of whether the respondent or his representative attend the informal conference. Note: For proceedings conducted by Board of Nursing subordinates, the completed worksheet is only to be attached to the subordinate's recommended decision where the respondent attends the informal conference. If the respondent does not attend, the completed worksheet shall not be provided to respondent.